

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ERNEST SMITH,)
vs.)
Plaintiff,)
vs.) NO. CIV-18-0602-HE
NANCY A. BERRYHILL, Acting)
Commissioner of the Social Security)
Administration,)
Defendant.)

ORDER

Plaintiff Ernest Smith filed this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying disability insurance benefits. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Bernard M. Jones for proposed findings and recommendations. Judge Jones has issued a Report and recommendation recommending that the Commissioner's decision be reversed and the matter remanded for further proceedings. Judge Jones found that the administrative law judge did not properly weigh the opinion of one of plaintiff's treating physicians.

The parties have failed to object to the Report thereby waiving their rights to appellate review of the factual and legal issues it addressed. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010). Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. # 18], **REVERSES** the final decision of the Commissioner, and **REMANDS** the case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order. This decision does not suggest

or imply any view as to whether plaintiff is or is not disabled or what result should be reached on remand.

IT IS SO ORDERED.

Dated this 28th day of February, 2019.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE